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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/217,112	12/21/1998	KYOU-WOONG KIM	678-206-(P85	8740
7590	10/30/2003		EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			CUMMING, WILLIAM D	
			ART UNIT	PAPER NUMBER
			2683	18
DATE MAILED: 10/30/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/217,112

Applicant(s)

KIM, KYOU-WOONG

Examiner

WILLIAM D. CUMMING

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 July 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5 and 8-10 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3, 5, 9, and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Tam** as stated by paragraph 4, of the Office action dated June 12, 2002. Applicants claim the invention in the alternative. The reference does disclose providing one service option available via a cellular system.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cashman** in view of **Murata, et al** or **Tanaka, et al** or **Shinozaki or Kyronlahti, et al** or **Tam** as stated by paragraph 11, of the Office action dated June 12, 2002. Applicants claim the invention in the alternative. The references, **Cashman** and **Tam** also disclose providing one service option available via a cellular system.

Allowable Subject Matter

6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

7. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

8. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The response filed July 18, 2003 has been entered.

9. AMENDMENTS NOW MUST BE SUBMITTED IN REVISED FORMAT

All amendments received by the Office on or after July 30, 2003 must be in compliance with the rules as required by the Revised Amendment Practice. This practice requires the submission of an amendment document that includes separate sections for amendments to the claims, drawings, specification and abstract, each beginning on a new sheet of paper. If an amendment is received as a preliminary amendment or as a *bona fide* reply under 37 CFR 1.111, that has compliant amendments to one or more separate section(s), but also includes one, or more, separate section(s) with non-compliant amendments, the Office will mail a Notice of Non-Compliant Amendment requiring correction to the non-compliant section(s) within a time period set by the Office. When making corrections, applicant should just resubmit the needed corrected section(s), and correspondingly, should not resubmit the entire amendment document. For example, if the amendment included compliant amendments to the specification and claims, and non-compliant amendments to the drawings, a notice requiring resubmission of compliant amendments to the drawings would be sent. In reply to the notice, applicant should only submit a compliant amendment to the drawings, and not the previously compliant amendments to the specification and claims. If any additional, or further, amendments to the claims are desired, the changes must be made relative to the previous compliant amendment to the claims. The Office will consider both the previous compliant amendment to the claims, and the supplemental compliant amendment to the claims, after the Office receives the compliant amendment to the drawings.

An amendment submitted on or after July 30, 2003 as part of a reply after the close of prosecution (e.g., as a reply under 37 CFR 1.116) that is not compliant with the Revised Amendment Practice will not act to toll the outstanding time period. See 37 CFR 1.135(c). A notice (e.g., an advisory action) may be mailed by the Office specifying which section(s) of the amendment was not in compliance with the Revised Amendment Practice, but no new time period will be given to provide a compliant section.

REVISED FORMAT OF AMENDMENTS

Begin on separate sheets:

Each section of an Amendment (e.g., Claim Amendments, Specification Amendments, Remarks) should begin on a separate sheet. *For example, in an amendment containing a.) introductory comments, b.) amendments to the claims, c.) amendments to the specification, and d.) remarks, each of these sections should begin on a separate sheet.* This will facilitate the process of separately indexing and scanning of each part of an amendment document for placement in an electronic file wrapper.

Two versions of amended part(s) no longer required:

The current requirement in 37 CFR 1.121(b) and (c) to provide two versions (a clean version and a marked up version) of each replacement paragraph, section, substitute specification or claim will be waived where an amendment is submitted in the following format:

A) Amendments to the claims:

Each amendment document that includes a change to an existing claim, or submission of a new claim, **must include a complete listing** of all claims in the application. After each claim number, the status must be indicated in a parenthetical expression, and the text of each claim under examination (with markings to show current changes) must be presented. The listing will serve to replace all prior versions of the claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled or withdrawn claims, must be given. Status is indicated in a parenthetical expression following the claim number by one of the following: (original), (currently amended), (previously amended), (canceled), (withdrawn), (new), (previously added), (reinstated – formerly claim #_), (previously reinstated), (re-presented – formerly dependent claim #_), or (previously re-presented). The text of all pending claims under examination must be submitted each time any claim is amended. Canceled and withdrawn claims should be indicated by only the claim number and status.**
- (2) All claims being currently amended must be presented with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim should be shown by strikethrough (for deleted matter) or underlining (for added matter). An accompanying clean version is not required and should not be presented. Only claims of the status “currently amended” will include markings.**
- (3) The text of pending claims not being amended must be presented in clean version, i.e., without any markings. Any claim presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version.**
- (4) A claim may be canceled by merely providing an instruction to cancel. Listing a claim as canceled will constitute an instruction to cancel. Any claims added by amendment must be indicated as (new) and shall not be underlined.**
- (5) All of the claims in each amendment paper must be presented in ascending numerical order. Consecutive canceled or withdrawn claims may be aggregated into one statement (e.g. Claims 1 – 5 (canceled)).**

Example of listing of claims:

Claims 1-5 (canceled)

Claim 6 (withdrawn)

Claim 7 (previously amended): A bucket with a handle.

Claim 8 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 9 (withdrawn)

Claim 10 (original): The bucket of claim 8 with a wooden handle.

Claim 11 (canceled)

Claim 12 (new): A bucket with plastic sides and bottom.

Claim 13 (previously added): A bucket having a circumferential upper lip.

Claim 14 (re-presented – formerly claim 11): A black bucket with a wooden handle.

B) Amendments to the specification:

Amendments to the specification may be made by presenting a replacement paragraph, section or substitute specification marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented.

C) Amendments to drawing figures:

Drawing changes may be made by presenting replacement figures which incorporate the proposed changes and which comply with § 1.84. An explanation of the changes made must be presented in the remarks section of the amendment. If the changes to the drawing figure(s) are not approved by the examiner, applicant will be informed in the next Office action. Any replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing should not be labeled as "amended."

Any questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to the following legal advisors in the Office of Patent Legal Administration (OPLA): Elizabeth Dougherty (Elizabeth.Dougherty@uspto.gov), Gena Jones (Eugenia.Jones@uspto.gov) or Joe Narcavage (Joseph.Narcavage@uspto.gov). For information on the waiver or legal aspects of the prototype, please contact Jay Lucas (Jay.Lucas@uspto.gov), Senior Legal Advisor (PCTLA) or Rob Clarke (Robert.Clarke@uspto.gov), Senior Legal Advisor (OPLA). Alternatively, further information may be obtained by calling OPLA at (703) 305-1616.

10. Patent Customers Advised to FAX Communications to USPTO

Facsimile transmissions of communications to the Office can significantly expedite processing of the communication within the Office. For example, when an assignment document is faxed to the Office, the average cycle time to process, record, and send a notice of recordation is one calendar day, whereas when the document is mailed to the Office, the average cycle time is 113 calendar days. See Status of Office of Public Records Services, 1269 Off. Gaz. Pat. Office 19,20 (April 1, 2003).

With many of the facsimile numbers provided below (i.e., those numbers below with 746 or 872 after the area code in the facsimile number), a return receipt will be automatically generated that will include the number of pages received as well as the date and time the facsimile was received. Additionally, the return receipt will include an image of the received cover page. The return receipt will be automatically sent to the sender's facsimile machine so long as the sender's facsimile number is properly programmed in the sending facsimile machine, and the sender's facsimile machine is available to receive a fax immediately following the original transmission. (Note that with area code changes, or with movement of a facsimile machine from one number to another, the facsimile machine's number may need to be reprogrammed.) Even if a return receipt is not desired, at least the first page of the facsimile transmission must clearly indicate the date and time the transmission is sent, an identification of the business, other entity, or individual sending the transmission, and the telephone number of the sending machine or of such business, other entity, or individual. See 47 U.S.C. 227(d)(1)(B) and 47 CFR 68.318(d). A return receipt will be attempted to be sent several times, but if a busy signal is repeatedly received, a return receipt will not be received by the sender. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to an Office action by facsimile (see 37 CFR 1.6 and 1.8). Applicants are also advised to retain the return receipt in the event that the Office has no record of the facsimile submission.

PTO Form 2038 should be used when authorizing payment by credit card; this form is maintained separate from the file to ensure confidentiality. Note that current processing of assignment documents now permits use of a credit card, but that PTO form 2038 should be used to prevent credit card information from being included in public records. Form PTO-2038 may be downloaded at <http://www.uspto.gov/web/forms/2038.pdf> from the USPTO website.

Faxes to the Office of Initial Patent Examination

Responses to notices from the Office of Initial Patent Examination (OIPE) and requests for corrected filing receipts may be filed by facsimile. New applications (other than continued prosecution applications (CPAs) under 37 CFR 1.53(d)) may not be filed by facsimile. The following is a list of Official Facsimile Numbers for the OIPE:

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TC2900:

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TC2100:

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Telephone number for customer service: (703)306-5631

TC3600:

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Telephone number for customer service: (703)306-0377

TC3700:

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Patent applicants are also reminded that 37 CFR 1.6(d) permits payment of an issue fee and a publication fee (if required) by facsimile transmission. When drawings are submitted with payment of an issue fee, they may be submitted by facsimile, although applicants are reminded that the facsimile process may reduce the quality of the drawings, and the Office will generally print the drawings received.

The applicable telephone numbers for payment of the issue and/or publication fee(s) by facsimile transmission are as follows:

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(and any Publication Fee) Payments: (703) 746-4000

Telephone number to check on receipt
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The Office of Patent Publication also handles many matters related to publication of patent applications. For example, express abandonments under 37 CFR 1.138(c) are handled by the Pre-Grant Publication Division of the Office of Patent Publication. In addition, requests to rescind a nonpublication request and notices of foreign filing should be directed to the Pre-Grant Publication Division. Questions regarding publication of patent applications (or rescissions of nonpublication requests) may also be directed by e-mail to pgpub@uspto.gov.

Fax number for PGPUB correspondence: (703) 305-8568

Telephone number for the Pre-Grant Publication Division: (703) 605-4283

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Fax number for Automated Patent and Trademark Assignment system: 703-306-5995

Telephone number for Assignment Division for assistance: 703-308-9723

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Applicable correspondence may be submitted to the Office of Petitions via facsimile. For questions concerning Petitions, contact the Office of Petitions at the numbers below:

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Telephone number for customer service and inquiries: 703-305-9282

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Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003). The mail stop should generally appear as the first line in the address, but the term "Mail Stop" may be abbreviated "MS". Special mail stop designations should be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible. Such mail may be forwarded to the appropriate area without being opened. Only the specified type of document should be placed in an envelope addressed to one of these special mail stops. If any documents other than the specified type identified for each special mail stop are addressed to that mail stop, they will be significantly delayed in reaching the appropriate area for which they are intended.

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CFR 1.193(a).

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Mail Stop EBC	Mail for the Electronic Business Center
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Mail Stop Issue Fee	All communications following the receipt of a PTOL-85, "Notice of Allowance and Fee(s) Due," and prior to the issuance of a patent should be addressed to Mail Stop Issue Fee, unless advised to the contrary. Issue fee payments can also be faxed to (703)746-4000. Assignments are the exception. Assignments (with cover sheets) should be faxed to (703)306-5995 or submitted in a separate envelope and be sent to Mail Stop Assignment Recordation Services, Director - US Patent and Trademark Office as shown below.
Mail Stop Missing Parts	Reply to the Notice to File Missing Parts of Application and associated papers and fees. Note that such correspondence may also be faxed to: 703-746-4060.
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	for replies after final rejection.)
Mail Stop Patent Application	New patent applications and associated papers and fees.
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Mail Stop PCT	Mail related to applications filed under the Patent Cooperation Treaty.
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Mail Stop Reissue	All new and continuing reissue application filings.
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Questions regarding the information provided on this page should be directed to: Darnell Jayne, Legal Advisor in the Office of Patent Legal Administration, by telephone at (703) 308-6906 or by e-mail addressed to Darnell.Jayne@USPTO.gov.

Response to Arguments

12. Applicant's arguments filed October 17, 2003 have been fully considered but they are not persuasive.

Anticipatory reference need not duplicate, word for word, what is in claims; anticipation can occur when claimed limitation is "*inherent*" or otherwise implicit in relevant reference (Standard Havens Products Incorporated v. Gencor Industries Incorporated, 21 USPQ2d 1321). During examination before the Patent and Trademark Office, claims must be given their broadest reasonable interpretation and limitations from the specification may not be imputed to the claims (Ex parte Akamatsu, 22 USPQ2d, 1918; In re Zletz, 13 USPQ2d 1320, In re Priest, 199 USPQ 11). In response to Applicant's argument, the law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "*read on*" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "*fully met*" by it. It was held in In re Donohue, 226 USPQ 619, that, "*It is well settled that prior art under 35 USC §102(b) must sufficiently describe the claimed invention to have placed the public in possession of it...Such possession is effected if one of ordinary skill in the art could have combine the description of the invention with his own knowledge to make the claimed invention.*" Clear inference to the artisan must be considered, In re

Preda, 159 USPQ 342. A prior art reference must be considered together with the knowledge of one of ordinary skill in the pertinent art, In re Samour, 197 USPQ 1. During patent examination, the pending claims must be "*given the broadest reasonable interpretation consistent with the specification.*" Claim term is not limited to single embodiment disclosed in specification, since number of embodiments disclosed does not determine meaning of the claim term, and applicant cannot overcome "*heavy presumption*" that term takes on its ordinary meaning simply by pointing to preferred embodiment (Teleflex Inc. v. Ficosa North America Corp., CA FC, 6/21/02, 63 USPQ2d 1374). Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA1969). "*Arguments that the alleged anticipatory prior art is nonanalogous art' or teaches away from the invention' or is not recognized as solving the problem solved by the claimed invention, [are] not germane' to a rejection under section 102.*" Twin Disc, Inc. v. United States, 231 USPQ 417, 424 (Cl. Ct. 1986) (quoting In re Self, 671 F.2d 1344, 213 USPQ 1, 7 (CCPA 1982)). A reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. The question whether a reference "*teaches away*" from the invention is inapplicable to an anticipation analysis. Celeritas Technologies Ltd. v. Rockwell International Corp., 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir.1998).

Since applicants claim their invention in alternative form, the examiner could also examine the claims as such.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. **A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.**

15. If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

16. If applicants request an interview after this final rejection, prior to the interview, the intended purpose and content of the interview should be presented briefly, in writing. Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search will be denied.

17. The American Inventors Protection Act of 1999 (AIPA) enacted provisions for the continued examination of a utility or plant application at the request of the applicant (request for continued examination or RCE practice). Since continued prosecution application (CPA)practice is largely redundant in view of RCE practice, the Office is eliminating CPA practice as to utility and plant applications. An applicant for a utility or plant patent may also continue to effectively obtain further examination of the application by filing a continuing application. Since RCE practice does not apply to design applications, CPA practice will remain in place for design applications.

EFFECTIVE DATE: July 14, 2003

FOR FURTHER INFORMATION CONTACT: Eugenia A. Jones, by telephone at (703) 306-5586, or by mail addressed to: Box Comments —Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703)872-9404, marked to the attention of Eugenia A. Jones.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM D. CUMMING whose telephone number is 703-305-4394. The examiner can normally be reached on Monday 10:30am to 8:30pm, Tuesday 1:00pm to 8:30pm, Thursday 10:30am to 2:30pm EST.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.



WILLIAM D. CUMMING
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